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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,835	02/17/2004	Max Arthur Lembke	6579-0082-1	9134

7590 07/31/2006

RICHARD R. MICHAUD  
THE MICHAUD-DUFFY GROUP, LLP  
306 INDUSTRIAL PARK ROAD, SUITE 206  
MIDDLETON, CT 06457

EXAMINER
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MICHALSKI, SEAN M

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/779,835	LEMBKE, MAX ARTHUR	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sean M. Michalski	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06/06/2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 13-16, 18 and 25-31 is/are rejected.
- 7) Claim(s) 12, 17, 19-24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed June 6<sup>th</sup>, 2006 have been fully considered but they are not persuasive.
2. In response to applicant's argument that The Burout reference does not include a flexible hinge, examiner disagrees. The resilient material of the Burout reference is a hinge in fact, since it is disclosed as being flexible. It functions as a hinge and has the structure necessary to be rightfully called a hinge in all but the most narrow definitions.
3. In response to applicant's argument that The Burout reference does not disclose "a plurality of support members, each support member having a plurality of blade seats spaced apart from one another along a length of the support member", Examiner disagrees. Examiner believes his characterization of the nature of Burout to be a reasonable interpretation of the Burout reference and, as such, maintains it in the current rejection. Even though the structure is unitary, it does not change the functional or visual characteristics of the support members. There are three distinct regions that support the blade, which are aptly characterized as two support members and a retaining member. There is no indication in the claim language that the retaining member may not additionally be supportive of the blade, and the allegation that the retaining members contiguity with the support members makes the Examiners reasonable interpretation of the reference invalid is unpersuasive.
4. In response to applicants argument that the contiguous nature of the support structure means that the blade supports are not "spaced apart" Examiner disagrees.

Two blade supports (the end supports) are spaced apart via a third intervening structure, that of the retaining member. The end support members are still "spaced apart" from one another.

5. In response to the argument that the Burout reference fails to disclose "a plurality of retaining members" . . . "connecting said support members", Examiner disagrees. There are clearly at least two retaining members (435, 425, figure 8) that serve to retain the support members relative to one another. Without the retaining members only the blade itself would connect the support members, therefore it is unquestionably reasonable to characterize elements 425 and 435 as retaining members.

6. In response to the argument that the Christman reference fails to teach "a plurality of support members", this argument is moot, since Examiner does not rely on Christman to provide evidence of said plurality of support members. Applicant has not noted or objected to any inadequacies in the Christman reference with regards to the essential subject matter of the reference.

7. Applicants argument that the Coffin reference is ineffective relies on the previously discussed argument of the deficiencies of the Burout reference. As such, it is rendered moot in view of Examiners remarks above. Applicant has not noted or objected to any inadequacies in the Coffin reference with regards to the essential subject matter of the reference.

8. With regards to claim 12, Examiner had intended to indicate such as allowable, since the only reasonable interpretation of the claim is that there are hinges between

successive blades, AND the hinge between blade pair 1-2, for instance, has a different spring constant than blade pair 2-3. Examiner believes there is nothing to suggest this configuration in the prior art, and as such, it should be indicated as allowable.

***Claim Rejections - 35 USC § 102***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
10. Claims 1-5, 8, 9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Burout.

Since these claims were treated in the previous office action dated 2/17/2004, only the amended portions which affect the rejection will be discussed further.

Regarding the limitation "a plurality of razor blades", Burout discloses a plurality of razor blades (figure 8). Burout further discloses that the support members are "spaced apart from each other and arranged..." as seen in figure 8, and commented on in section 4 above. Burout further discloses that each of said blades is attached to one of said rows. This can be clearly seen in figure 8, where both blades are attached to respective rows of blade seats.

11. Claims 2-5, 8, 9 and 11 have not been amended and as such do not require further treatment since they are treated fully in the office action dated 03/06/2006.

***Claim Rejections - 35 USC § 103***

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 6, 7, 10, 13-16, 18, 26-28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burout et al. in view of Christman et al.

14. Claims 6, 7, 10, 14, 15, 18, 26 and 28-31 have not been amended and as such do not require further treatment since they are treated fully in the office action dated 03/06/2006.

15. Regarding claim 13, Burout et al. further discloses that support members are deformable in response to externally applied force such that a relative angle between successive razor blades is variable.

Burout et al. discloses all the features of the claimed invention except for the connection of the pivot members to a handle via arm members.

Christman teaches both fore and aft pivot members (numbers 8, 9, 11 figure 1 form the pivot members) being attached to a handle (1 figure 1), via arm members ( 10 figure 1).

In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Burout et al by using pivot members to connect to a handle via arm members as taught by Christman et. al. The motivation to combine is that the pivoting connection with a handle allows for movement in response to shaving forces (see Christman et al. column 2 lines 40-43).

16. Regarding claim 16, Burout discloses a handle , a razor cartridge having a plurality of razor blades; said razor cartridge having a plurality of support members (the end areas adjacent to 425, 435) each having a plurality of blade seats (at least two,

seen on the left of figure 8 supporting the blades 420 and 430) along a length of said support member (as seen in figure 8). Burout further discloses that each of the blade seats of each of said support members is separated from a next successive blade seat of said support member by a flexible hinge (seen most clearly in figure 7, flexible hinge 427 separates successive blade seats supporting 430 and 420). Burout further discloses a plurality of retaining members (425 and 435 figure 8) which connect said support members such that said support members are spaced apart from each other and arranged so that each of said blade seats is approximately aligned with a corresponding blade seat defined by the next successive support member, thereby forming a plurality of rows of approximately aligned blade seats (seen in figure 8). Burout further discloses that each of the razor blades is attached to one of said rows of blade seats( see figures 7 and 8). Burout further discloses that the hinges and thereby the support members are deformable in response to an externally applied force such that a relative angle between successive razor blades is variable (column 7 lines 9-20).

Burout does not teach the connection of the pivot members to a handle via arm members.

Christman teaches both fore and aft pivot members (numbers 8, 9, 11 figure 1 form the pivot members) being attached to a handle (1 figure 1), via arm members ( 10 figure 1).

In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Burout et al by using pivot members to connect to a handle via arm members as taught by Christman et. al. The motivation to combine is

that the pivoting connection with a handle allows for movement in response to shaving forces (see Christman et al. column 2 lines 40-43).

17. Regarding claim 18, Burout et al. in view of Christman et al as discussed above meets all the limitations of the claim except for the limitation that the second ends be biased toward one another applying a compressive force to said razor cartridge retained therebetween.

Christman further discloses that said second ends are biased toward one another applying a compressive force to said razor cartridge retained therebetween (column 3, lines 4-6)

18. Regarding claim 27, Burout et al. in view of Christman et al as discussed above meets all the limitations of the claim. Christman teaches both fore and aft second pivot members (numbers 8, 9, 11 figure 1 form the pivot members) being attached to a handle (1 figure 1), via arm members ( 10 figure 1). It also teaches first pivot members (the female portion where second pivot members connect to the cartridge) being attached to said support members.

19. Regarding claim 28, Burout et al. in view of Christman et al as discussed previously (specifically in regards to claims 10 and 27) meets all the limitations of the claim.

20. Regarding claim 30, Burout et al. in view of Christman et al as discussed above (specifically in regards to claims 18 and 27) teaches all the limitations of the claim.

21. Regarding claim 31, Burout et al. in view of Christman et al as discussed previously (specifically in regards to claims 14 and 27) meets all the limitations of the claim.

22. Claims 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burout et al. in view of Christman as applied to claims 6, 7, 10, 13-16, 26 and 27 above, and further in view of Coffin (USPGPUB 2004/0221455 A1).

Regarding claims 25 and 29, Burout et al. in view of Christman et al as discussed above meets all the limitations of the claim except for the limitation that the relative spacing between a cutting edge of successive razor blades is non-uniform.

Coffin teaches the use of non-uniform blade spacing (figure 6e).

In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Burout et al. in view of Christman et al by making the relative spacing between successive blades non-uniform as taught by Coffin. The motivation to combine is providing more comfort, better performance and more safety (page 3 column 1, first half of the column).

***Allowable Subject Matter***

Art Unit: 3725

23. Claims 12, 17 and 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER